

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ARDMORE LEASING CORPORATION, dba  
SAV-MOR RENT-A-CAR,

Civil No. 05-6166-HO

ORDER

Plaintiff,

v.

MOTORCOACH SALES OF OREGON, INC.,  
an Oregon corporation, dba  
BEAVER COACH SALES, et al.,

Defendants.

Defendants filed a motion to dismiss two claims, for failure to state a claim upon which relief may be granted. At telephone argument, counsel for defendant conceded that count five of the first claim for relief of the amended complaint states a claim under Oregon's Unlawful Trade Practices act.

Monaco argues that the second claim for relief for violation

of Oregon's so-called Lemon Law fails to state a claim upon which relief may be granted because a corporation is not a "consumer" within the meaning of the law.

"Consumer" means:

(a) The purchaser or lessee, other than for purposes of resale, of a new motor vehicle normally used for personal, family or household purposes;

(b) Any person to whom a new motor vehicle used for personal, family or household purposes is transferred for the same purposes during the duration of an express warranty applicable to such motor vehicle; and

(c) Any other person entitled by the terms of such warranty to enforce the obligations of the warranty.

Or.Rev.Stat. § 636.315(1). "'Motor vehicle' means a passenger motor vehicle as defined in ORS 801.360<sup>1</sup> that is sold in this state." Or.Rev.Stat. § 636.315(2). A motor home is a motor vehicle within the meaning of Section 636.315(2). Sweeney v. SMC Corp., 37 P.3d 244 (Or.App. 2002).

Nothing in the definition of consumer excludes corporations. The amended complaint alleges that plaintiff sought to purchase the coach for Jenkins's personal use, and the coach has been devoted exclusively to the Jenkins's personal, family, and household use. Amend.Comp., ¶¶ 7, 31. The amended complaint

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<sup>1</sup>"'Motor vehicle' means a vehicle that is self-propelled or designed for self-propulsion." Or.Rev.Stat. § 801.360.

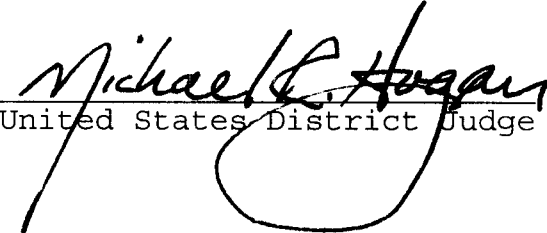
thus alleges facts that, if true, establish that plaintiff is a consumer within the meaning of Section 636.315(1).

Conclusion

For the foregoing reasons, defendants' motion to dismiss [#10] is denied.

IT IS SO ORDERED.

DATED this 20<sup>th</sup> day of September, 2005.

  
United States District Judge